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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,675	07/10/2003	Daniel Charles Birkestrand	ROC920030150US1	2590
46296 7590 09/04/2008 MARTIN & ASSOCIATES, LLC P.O. BOX 548 CARTHAGE, MO 64836-0548				
EXAMINER				
ZHE, MENG YAO				
ART UNIT		PAPER NUMBER		
2195				
MAIL DATE		DELIVERY MODE		
09/04/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/616,675

**Applicant(s)**

BIRKESTRAND ET AL.

**Examiner**

MENGYAO ZHE

**Art Unit**

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 May 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10 and 11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 10 and 11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-893)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date 4/6/2008

**DETAILED ACTION**

1. Claims 10, 11 are presented for examination.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vega, Patent No. 7,136,800 (hereafter Vega) in view of Circenis et al., Patent Number US 7,146,492B2 (hereafter Circenis).
4. Circenis and Vega were cited in the last office action.
5. As per claim 10, Vega teaches a computer-implemented method for providing at least one temporary resource on demand for a specified resource-time in a computer system that includes a plurality of logical partitions, the method comprising the steps of:
- reading a minimum resource specification for all of the plurality of logical partitions, each minimum resource specification specifying minimum resources that must be available for a corresponding logical partition to function correctly (Column 6, lines 1-12);

determining a total of resources that are permanently enabled in the computer, determining whether the requested increase in the minimum resource specification corresponding to the one logical partition will cause a sum of all minimum resource specifications for all of the plurality of logical partitions to exceed the total of resources that are permanently enabled in the computer system (Column 6, lines 18-33);

if the requested increase in the minimum resource specification corresponding to the one logical partition will cause a sum of all minimum resource specifications for all logical partitions to exceed the total of resources that are permanently enabled in the computer system, denying the requested increase in the minimum resource specification corresponding to the one logical partition (Column 6, lines 18-33);

if the requested increase in the minimum resource specification corresponding to the one logical partition will not cause the sum of all minimum resource specifications for all logical partitions to exceed the total of resources that are permanently enabled in the computer system, performing the steps of:

permitting the requested increase in the minimum resource specification corresponding to the one logical partition (Column 6, lines 18-33; Column 7, line 60-Column 8, line 6);

Vega does not specifically teach that it is the logical partition itself that requests to increase a minimum resource specification for itself.

However, Vega does teach contending for resources in general among the logical partitions for the purpose of gaining more resources (7, line 60-Column 8, line 6).

It would have been obvious to one having ordinary skill in the art to modify the teachings of Vega such that minimum resources specifically, not just resources in general, may also be contended among logical partitions such that the logical partition may request for a an increase in minimum resources as well, because it allows for the gain of more resources.

Vega does not specifically teach a temporary resource on demand that may be available for each logical partition, where the partition can request an enablement code corresponding to the at least one temporary resource for the specified resource-time; receiving the enablement code; enabling the at least one temporary resource for the specified resource-time; using the at least one temporary resource for the specified resource-time; recovering the at least one temporary resource when the specified resource-time expires.

However, Circenis teaches a capacity manager and a resource allocator that manages at least one temporary resource on demand for a specified resource-time, the capacity manager to assure the at least one temporary resource may be recovered when the specified resource-time has expired (Column 12, lines 1-20; Column 6, lines 46-60; Column 7, lines 5-14) for the purpose of giving users the options of having on demand resources, tracking the amount of temporary resources allowed for the user and deactivate those resources when the time is up.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to modify the teachings of Vega where a minimum resource is available to multiple partitions within a system with permitting each partition with a

temporary resource, so that these temporary resource may be managed by a capacity and a resource allocator to assure the at least one temporary resource may be recovered when the specified resource-time has expired, as taught by Circenis, because it gives users the options of having on demand resources, tracking the amount of temporary resources allowed for the user and deactivate those resources when the time is up.

6. As per claim 11, Circenis teaches wherein the partition manager further comprises: an enablement code mechanism that evaluates an enablement code to determine whether the code is valid, wherein the enablement code includes the specified resource- time (Column 12, lines 1-20).

7. Claims 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karp et al., Patent No. 7,032,222 (hereafter Karp) in view of Vega, Patent No. 7,136,800 (hereafter Vega) further in view of Circenis et al., Patent Number US 7,146,492B2 (hereafter Circenis).

8. As per claim 10, Karp teaches a computer-implemented method for providing at least one temporary resource on demand for a specified resource-time in a computer system that includes a plurality of tasks, the method comprising the steps of:

reading a minimum resource specification for all of the plurality of tasks, each minimum resource specification specifying minimum resources that must be available for a corresponding task to function correctly (Column 3, lines 57-Column 4, line 8);

determining a total of resources that are permanently enabled in the computer, determining whether the requested increase in the minimum resource specification corresponding to the one task will cause a sum of all minimum resource specifications for all of the plurality of logical partitions to exceed the total of resources that are permanently enabled in the computer system (Column 3, lines 44-51);

if the requested increase in the minimum resource specification corresponding to the one task will cause a sum of all minimum resource specifications for all tasks to exceed the total of resources that are permanently enabled in the computer system, denying the requested increase in the minimum resource specification corresponding to the one task (Column 4, lines 30-36);

if the requested increase in the minimum resource specification corresponding to the one logical partition will not cause the sum of all minimum resource specifications for all tasks to exceed the total of resources that are permanently enabled in the computer system, performing the steps of:

permitting the requested increase in the minimum resource specification corresponding to the one task (Column 4, lines 23-28);

Karp does not specifically teach each task resides in a logical partition and a temporary resource on demand that may be available for each logical partition, where the partition can request an enablement code corresponding to the at least one temporary resource for the specified resource-time; receiving the enablement code; enabling the at least one temporary resource for the specified resource-time; using the at least one temporary resource for the specified resource-time; recovering the at least one temporary resource when the specified resource-time expires.

However, Vega teaches logical partitions running applications and tasks for the purpose of accommodating multiple guests on a single computer (Column 4, line 50-Column 5, line 2).

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to modify the teachings of Karp with logical partitions running applications and tasks, as taught by Vega, because it allows for the accommodation of multiple guests on a single computer.

Furthermore, Circenis teaches a capacity manager and a resource allocator that manages at least one temporary resource on demand for a specified resource-time, the capacity manager to assure the at least one temporary resource may be recovered when the specified resource-time has expired (Column 12, lines 1-20; Column 6, lines 46-60; Column 7, lines 5-14) for the purpose of giving users the options of having on demand resources, tracking the amount of temporary resources allowed for the user and deactivate those resources when the time is up.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to modify the teachings of Karp in view of Vega where a minimum resource is available to multiple partitions within a system with permitting each partition with a temporary resource, so that these temporary resource may be managed by a capacity and a resource allocator to assure the at least one temporary resource may be recovered when the specified resource-time has expired, as taught by Circenis, because it gives users the options of having on demand resources, tracking the amount of temporary resources allowed for the user and deactivate those resources when the time is up.

9. As per claim 11, Circenis teaches wherein the partition manager further comprises: an enablement code mechanism that evaluates an enablement code to determine whether the code is valid, wherein the enablement code includes the specified resource- time (Column 12, lines 1-20).

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MENGYAO ZHE whose telephone number is (571)272-6946. The examiner can normally be reached on Monday Through Friday, 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Li B. Zhen/  
Primary Examiner, Art Unit 2194